

Amendment No. 3 to HB8001

Hazlewood
Signature of Sponsor

AMEND Senate Bill No. 8001

House Bill No. 8001*

by deleting subdivisions 64-9-109(f)(3)-(5) and substituting instead:

(3)

(A) A person who is assessed a civil penalty may secure a review of such order by filing a petition with the authority not more than ten (10) business days after the levy of the civil penalty, setting forth the grounds and reasons for such person's objections and asking for a hearing in the matter involved before the board.

(B) If a person files a timely petition for review of a penalty under subdivision (f)(3)(A), the board shall grant the petitioner forty-five (45) days to provide proof satisfactory to the board that the petitioner cured, remediated, mitigated, or took other corrective action to resolve the circumstances that were the basis of the penalty. After the forty-five-day period has tolled, the board shall consider the actions of the petitioner and issue a final order upholding the initial civil penalty, reducing the civil penalty, or vacating the civil penalty.

(C) A party aggrieved by an order of the board under subdivision (f)(3)(B) may file an appeal of the decision with the board not later than ten (10) business days after the decision is final.

(D)

(i) An appeal filed under subdivision (f)(3)(C) must be conducted as a contested case and must be heard before an administrative judge sitting alone pursuant to §§ 4-5-301(a)(2) and 4-5-314(b), unless settled by the parties.

(ii) The administrative judge to whom the case has been assigned shall convene the parties for a scheduling conference within thirty (30) days of the date the appeal is filed.

(iii) The scheduling order for the contested case issued by the administrative judge must establish a schedule that results in a hearing being completed within sixty (60) days of the scheduling conference, unless the parties agree to a longer time or the administrative judge allows otherwise for good cause shown.

(iv) An initial order must be issued within thirty (30) days of completion of the hearing. The administrative judge's initial order, together with earlier orders, if any, issued by the administrative judge, become final pursuant to § 4-5-315, unless appealed to the chancery court of Madison County not less than ten (10) business days after the issuance of the order in accordance with § 4-5-322.

(4) If a petition for review of a civil penalty is not filed with the authority within ten (10) days after the civil penalty is served in a manner authorized by law, then the violator is deemed to have consented to the civil penalty, which consent becomes final.

(5) Whenever a civil penalty becomes final because of a person's failure to appeal the civil penalty, the authority may apply to the chancery court of Madison County for a judgment and seek execution of such judgment. The court, in such proceedings, shall treat the failure to appeal such civil penalty as a confession of judgment.

AND FURTHER AMEND by adding the following sentence at the end of § 64-9-109(f)(1):

The authority shall provide each adverse party not less than ten (10) days' written notice prior to assessing a penalty under this subdivision (f)(1).